

## PLANNED DEVELOPMENT PERMIT

**FILE NO.** PD14-057

**LOCATION OF PROPERTY** 1199 Piedmont Road

**ZONING DISTRICT** A(PD) Planned Development

**GENERAL PLAN DESIGNATION** Residential Neighborhood

**PROPOSED USE** Planned Development Permit to allow the demolition of one single-family residence and the construction of three single-family detached residences.

**ENVIRONMENTAL STATUS** Exempt under CEQA Guidelines Section 15303(b) for New Construction and Conversion of Small Structures

**OWNER/ADDRESS** Amy Quatrouache  
Apple Tree Investment LLC  
PO Box 32115  
San Jose, CA 95132

**APPLICANT/ADDRESS** Tuong Tran  
526 Calero Ave  
San Jose, CA 95123

### FACTS

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds relevant facts as follows for this proposed project:

- Project Description.** This Planned Development Permit allows the demolition of one existing single-family residence and the construction of three single-family detached residences, with two-car attached garages, on an approximately 0.40-gross acre site. The proposed setbacks are five feet from the interior side property lines, 25 feet from the front and rear property lines, and a maximum overall height of 26'-11".
- Site Description and Surrounding Uses.** The project site is located on the west side of Piedmont Road, approximately 220 feet north of Suncrest Avenue. The site is currently occupied by one single-family residence. The project site is in the A(PD) Planned Development Zoning District rezoned Planned Development Zoning File No. PDC07-021. The project site is surrounded by single-family residences on all sides.
- General Plan.** The subject site has a designation of Residential Neighborhood on the Envision San Jose 2040 General Plan Land Use/Transportation Diagram. This designation is intended to preserve the existing character of these neighborhoods and to strictly limit new development to infill projects which closely conform to the prevailing existing neighborhood character as defined by density, lot size and shape, massing and neighborhood form and pattern.

4. **General Development Plan.** The proposed project site is located in the A(PD) Planned Development Zoning District established by Planned Development Zoning File No. PDC07-021, which was adopted on October 7<sup>th</sup>, 2008 through Ordinance No. 28421.
  - a. **Use.** The project proposes three detached residences, with two-car attached garages.
  - b. **Lot Size.** Minimum lot size established with File No. PDC07-021 is 20,000 square feet.
  - c. **Setbacks.** The setbacks established by the General Development Standards for PDC07-021, are five feet from the interior side property lines and 25 feet from the front and rear property lines.
  - d. **Height.** The maximum allowable building height established by the General Development Plan for File No. PDC07-021 is 35 feet.
  - e. **Parking Requirement.** The project requires two covered parking spaces for each detached residence per the parking requirements set forth in the General Development Standards for File No. PDC07-021.
5. **CEQA.** Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project may be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. Under the CEQA Guidelines Section 15303(a) (New Construction or Conversion of Small Structures) exemption applies to construction of up to three single-family residences, in urbanized areas, which may be constructed or converted under this exemption. The project proposes to demolish one existing single-family residence and construct three single-family detached residences,

## FINDINGS

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **General Plan Conformance.** The project is consistent with the site's Envision San Jose 2040 General Plan Land Use/Transportation Diagram designation of Neighborhood/Community Commercial, in that the project implements an existing Planned Development Zoning which was previously found to be in conformance with the General Plan prior to its comprehensive update per the following General Plan Implementation Policy:
  - a. **Implementation Policy IP-1.4.** Implementation of existing planned development zonings and/or approved and effective land use entitlements, which were previously found to be in conformance with the General Plan prior to its comprehensive update, are considered as being in conformance with the Envision General Plan when the implementation of such entitlements supports its goals and policies.
2. **General Development Plan Conformance.** The proposed project conforms to the approved General Development Plan of the Planned Development Zoning in the following manner:
  - a. **Use.** The project proposes three detached residences, which is within the allowed number of units and density (8DU/AC) established with the General Development Standards for Planned Development Zoning File No. PDC07-021.

- b. **Setbacks.** The project conforms to the required setbacks established for Planned Development Zoning File No. PDC07-021, which are five feet from the interior side property lines and 25 feet from the front and rear property lines.
  - c. **Height.** The project proposes a maximum height of 26'-11" which is less than the maximum allowable building height of 35 feet as established by the General Development Plan for File No. PDC07-021.
  - d. **Parking Requirement.** The General Development Standards require two covered parking spaces per single-family dwelling unit. Each proposed unit includes an attached garage with two vehicle parking spaces, for a total of six spaces, and therefore conforms to this requirement.
3. **Environmental Review.** Under the provisions of Section 15303(a) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. Section 15303(a) (New Construction or Conversion of Small Structures) exemption applies to construction of up to three single-family residences, in urbanized areas, which may be constructed or converted under this exemption. The project proposes to demolish one existing single-family residence and construct three single-family detached residences, which will not adversely impact the adjacent property or properties.
4. **Demolition Permit Findings.** Under the provisions of Section 20.80.460 of the San José Municipal Code, prior to the issuance of any development permit, which allows for the demolition, removal or relocation of a building, the following shall be considered to determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation:
- a. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;  
*The project would be consistent with the site's Planned Development Zoning (File No. PDC07-021) development standards which were found to be compatible with the surrounding neighborhood by City Council.*
  - b. The approval of the permit should maintain the supply of existing housing stock in the City of San José;  
*The approval of the subject permit would increase the supply of housing in the City of San José by two single-family dwelling units because one dwelling unit is proposed for removal but 3 are proposed for construction.*
  - c. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;  
*The existing residence is not a historic resource.*
  - d. Rehabilitation or reuse of the existing building would not be feasible; and  
*The existing residence is located approximately 30 feet from the front of the property line, and approximately 23 feet and 15 feet from left and right hand side property lines. Therefore, the residence could not be retained to allow for further development of the site. Additionally, retaining the residence would be inconsistent with the land use plan approved with the Planned Development Zoning of the site, File No. PDC07-021, which includes the building footprints and lot configuration for all lots.*

5. **Planned Development Permit Findings.** Chapter 20.100 of Title 20 of the San Jose Municipal Code establishes required findings for issuance of a Planned Development Permit.

- a. The planned development permit, as issued, furthers the policies of the general plan.

*As stated above under the General Plan section, the proposed development would implement an existing Planned Development Zoning previously found to be in conformance with the General Plan prior to its comprehensive update.*

- b. The planned development permit, as issued, conforms in all respects to the planned development zoning of the property.

*As stated in the Planned Development Zoning section above, the proposed development would meet all of the required general development standards.*

- c. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious.

*The proposed residential units include two-story building elements. The rooflines are varied to reduce the mass of each building. The proposed height and massing is consistent with that of the existing residential developments to the north and south. The facades are well articulated through the use of pitched roofs, brackets, window trims, windows with divided lights, and use of varied materials such as horizontal lap siding, stucco, and composition shingle roofing.*

- d. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

*Under the provisions of Section 15303(a) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. Section 15303(a) (New Construction or Conversion of Small Structures) exemption applies to construction of up to three single-family residences, in urbanized areas, which may be constructed or converted under this exemption, and will not have any adverse impacts to the surroundings.*

In accordance with the findings set forth above, a Planned Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and

- b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire two years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, "3 Single Family Detached Residential Development, 1199 Piedmont Road, San Jose, CA 95132" dated received on February 8, 2016, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Conformance with Approved Zoning.** All conditions of approval and required environmental mitigation measures from the previously approved Planned Development Zoning remain in effect.
7. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
8. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
9. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.



10. **Refuse.** All trash areas shall be effectively screened from view, shall be covered or shall consist of self-contained weather tight compactor(s), and shall be maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
11. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
12. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
13. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
14. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
15. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
16. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
17. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy or Interim Lighting Policy. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
18. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
19. **Homeowner's Association.** A Homeowner's Association shall be established for maintenance of all common areas, including driveways/courtyards, landscaping and the community amenity area. A copy of the Development Permit, the accompanying Plan Set, any approved Amendments or Adjustments to the Development Permit, and a complete set of approved building and all improvement plans shall be provided to the Homeowner's Association by the applicant no later than 30 days upon completion of each phase.
20. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
21. **Garage Parking Spaces.** All garage parking spaces shown on the approved Planned Development Permit plans are to be used only as such and shall be kept free and clear of all obstructions. No conversion of any garages to living space, storage, or any other use is permitted.
22. **Demolition.** This permit allows the demolition of structure as noted on the approved Plans.
23. **Construction/Demolition Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
24. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to

be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient landscape Standards for New and Rehabilitated Landscaping.

25. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
26. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
27. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* This permit file number, *PD14-057*, shall be printed on all construction plans submitted to the Building Division, as required.
  - b. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
  - c. *Americans with Disabilities Act.* The applicant shall provide appropriate path of travel and access as required by the Americans with Disabilities Act (ADA).
28. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following:  
<http://www.sanjoseca.gov/index.aspx?nid=2246>.
  - a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
  - b. **Transportation:** This project is exempt from the Level of Service (LOS) Policy, and no further LOS analysis is required because the project proposes 15 units of Single Family detached or less.
  - c. **Grading/Geology:**
    - i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
    - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and

- inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.
- iii. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.
  - d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls, stormwater treatment measures to minimize stormwater pollutant discharges.
    - i. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
    - ii. A design of the pervious pavement by a Licensed Geotechnical Engineer shall be submitted prior to the issuance of a Public Works Clearance.
    - iii. Self-treating surfaces (concrete/asphalt/pavers) must conform to C3 Stormwater Handbook Figure(s) 6-35, 6-36 or 6-37.
  - e. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
  - f. **Flood: Zone X:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone X is an area of moderate or minimal flood hazard. Zone X is used on new and revised maps in place of Zones B and C. There are no City floodplain requirements for zone X.
  - g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
  - h. **Parks:** This residential project is subject to the payment of park fees in-lieu of land dedication under either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code).
  - i. **Undergrounding:**
    - i. The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Piedmont Rd. prior to issuance of a Public Works Clearance. 100 percent of the base fee in place at the time of payment will be due. Currently, the 2016 base fee is \$451 per linear foot of frontage and is subject to change every January 31<sup>st</sup> based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.
    - ii. The Director of Public Works may, at his discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Piedmont Rd. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.



j. **Street Improvements:**

- i. Construct curb, gutter, and 4.5' detached sidewalk and 7.5' parkstrip to match existing improvements along Piedmont Road frontage.
- ii. Close two existing driveway cut(s) along Piedmont Rd.
- iii. Proposed driveway width to be 20-feet.
- iv. Dedication and improvement of Piedmont Rd. may be required to the satisfaction of the Director of Public Works.
- v. Provide 25-foot street easement along Piedmont Rd.
- vi. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

k. **Electrical:**

- i. Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- ii. Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 10' in commercial areas and 5' in residential areas.

- l. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

29. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

**APPROVED** and issued on this **20<sup>th</sup> day of April, 2016.**

Harry Freitas, Director  
Planning, Building, and Code Enforcement

Deputy